

Remarks/Arguments

Claims 1-4 and 11-12 are pending in this application, and are rejected in the final Office Action of July 26, 2005. Claims 1-4 are amended herein.

Rejection of Claims 1-4 under 35 U.S.C. § 101

Claims 1-4 are rejected under 35 U.S.C. § 101 as alleged being directed to non-statutory subject matter. Applicants respectfully traverse this rejection in view of the accompanying amendments to claims 1-4, which are made in accordance with the Examiner's suggestions in the final Office Action. In particular, the term "electronically" is added to the various method steps in accordance with the Examiner's suggestion on page 2, paragraph 4 of the final Office Action. The amendments presented herein are not deemed to raise new issues that require a new search. These amendments were not presented earlier since claims 1-4 prior to issuance of the final Office Action of July 26, 2005 were deemed allowable over the prior art of record at that time. These amendments are deemed necessary to place this application in condition for allowance, or at a minimum, place the claims in better form for consideration on appeal. Accordingly, Applicant respectfully requests entry of the accompanying amendments, and withdrawal of the rejection under 35 U.S.C. § 101.

Rejection of Claims 1-4 and 11-12 under 35 U.S.C. § 103(a)

Claims 1-4 and 11-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,559,871 issued to Smith ("Smith '871") in view of U.S. Patent No. 6,067,564 issued to Urakoshi et al. ("Urakoshi et al. '564"), and further

in view of U.S. Patent No. 5,710,901 issued to Stodghill et al. ("Stodghill et al. '901"). Applicants traverse this rejection in view of the following remarks.

The instant rejection is a clear example of impermissible hindsight reconstruction. As will be described hereinafter, this impermissible hindsight is evidenced by several facts, including the fact that one of ordinary skill in the art would not be motivated to combine the prior art references in the manner proposed by the Examiner. Moreover, the proposed combination of references fails to teach or suggest all features of the claimed invention.

The claimed invention relates to a method and system for controlling user spending of a user purchasing **television programs**. Of the three prior art references applied in the instant rejection, only one of those references, namely secondary reference Urakoshi et al. '564, even relates to the field of television art. The primary reference, Smith '871 relates to the field of telephonic communications (i.e., Class 379), and the other secondary reference, Stodghill et al. '901, relates to the field of data processing and validation (i.e., Class 395). Accordingly, the fact alone that the Examiner selectively applies prior art from three distinctly different fields of art strongly suggests that the instant rejection is based on impermissible hindsight reconstruction.

The aforementioned impermissible hindsight reconstruction is further evidenced by the Examiner's proposed combination of Smith '871 and Urakoshi et al. '564. In particular, to support the instant rejection, the Examiner proposes modifying the

telephone call charge control technique disclosed by Smith '871 in accordance with the television program purchase control technique of Urakoshi et al. '564. This proposed combination is flawed in that one of ordinary skill in the television art would not be motivated to use telephonic communication art to solve the problem of controlling user spending for purchasing television programs. One primary reason for this lack of motivation is that the problem of controlling user spending for purchasing television programs, as claimed, is very different in nature than the problem of controlling telephone call charges due to the inherent differences in television program purchase charges versus telephone call charges. In particular, television program purchase charges are known before program purchase and viewing occur, while telephone call charges are known only after a call is completed. For example, a user contemplating the purchase of a pay-per-view television program is typically advised of the cost of this purchase before the purchase is actually made. Conversely, a user contemplating a long distance telephone call does not necessarily know the cost of the call before the call is commenced since he/she does not necessarily know how long the call will last. Given this fundamental difference in the nature of television program purchase charges versus telephone call charges, one of ordinary skill in the television art would not be motivated to use telephonic communication art to solve the problem of controlling user spending for purchasing television programs. Accordingly, this lack of motivation to modify the telephone call charge control technique disclosed by Smith '871 in accordance with the television program purchase control technique of Urakoshi et al. '564 evidences the impermissible hindsight reconstruction used to formulate the instant rejection.

The proposed combination of references also fails to teach or suggest all features of the claimed invention. To support the instant rejection, the Examiner further proposes modifying the combination of Smith '871/Urakoshi et al. '564 in accordance with the teachings of Stodghill et al. '901. In particular, Stodghill et al. '901 discloses a technique for validating data entered into a computer database by a user. By way of example, Stodghill et al. '901 teaches that their system can be used to address invalid date entries, such as an entry of December 32 (see column 4, lines 35-41), or to check if all of the figures in a particular column of a computer spreadsheet add up correctly (see column 5, lines 2-4). Nowhere do Stodghill et al. '901 disclose that their system could be used to solve the problem of controlling user spending for purchasing **television programs**, as claimed. Accordingly, the proposed combination including Stodghill et al. '901 fails to teach or suggest a method, system or television apparatus for controlling user spending for purchasing television programs including steps of:

“determining if the spending limit for a shorter time period is greater than the spending limit for a longer time period if more than one of the entries is selected;

providing a user warning if the spending limit for the shorter time period is greater than the spending limit for the longer time period” (see claim 1)

“means for determining if the spending limit for a shorter time period is greater than the spending limit for a longer time period if more than one of the spending limit entries is selected, and for providing a user warning if the spending limit for the shorter time period is greater than the spending limit for the longer time period” (see claims 11 and 12)

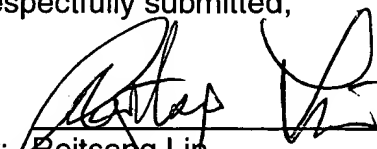
It is further noted that Stodghill et al. '901 nowhere even mentions television programs, television apparatuses, or anything relating to television art. The term

"television" is not present anywhere in the entire document. Accordingly, one of ordinary skill in the television art would have no motivation to consider the teachings of Stodghill et al. '901 when addressing the problem of controlling user spending for purchasing television programs.

Conclusion

In view of the foregoing remarks, Applicant believes that this application stands in condition for allowance. Accordingly, reconsideration and allowance of all pending claims are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,


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September 19, 2005

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I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Box AF, Commissioner for Patents, Alexandria, Virginia 22313-1450 on:

9-20-05
Date

Karen Schlanch